

Application Serial No.: 09/724,075
Amendment and Response to August 25, 2006 Final Office Action

REMARKS

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Claims 1 - 14 are in the application. Claims 1, 4, 7, 10 - 12, and 14 were previously presented and claims 2, 3, 5, 6, 8, 9, and 13 remain unchanged from the original versions thereof. Claims 1, 10, 12, and 14 are the independent claims herein.

No new matter has been added to the application. Reconsideration and further examination are respectfully requested.

Claim Rejections – 35 USC § 103

Claims 1 - 9 and 12 - 14 were rejected under 35 U.S.C. 103(a) as being unpatentable over Statement of Financial Accounting Standards No. 133, Accounting for Derivative Instruments and Hedging Activities by Edmund L. Jenkins, Nov, 1998. Vol. 186, Iss. 5; 12 pages (hereinafter, Jenkins) in view of Wallman U.S. Patent No. 6,380,210 (hereinafter, Wallman). This rejection is respectfully traversed.

Applicant reiterates that claim 1 relates to a hedge accounting method implemented by a programmed computer system for reducing periodic earnings volatility associated with a hedging transaction. Claim 1 states, in part,

in each of a plurality of sequential periods, processing data on the computer to compute a re-designation for accounting purposes of the portion of the financial exposure based on changed price sensitivity of the hedging instrument, to reduce periodic earnings volatility associated with a hedging transaction. (emphasis added)

Claims 10, 12, and 14 are, in relevant part, similar to claim 1. Thus, it is clear that Applicant claims computing a re-designation of the portion of the financial exposure based on changed price sensitivity of the hedging instrument, to reduce periodic earnings volatility associated with a hedging transaction.

The Office Action cites and relies upon Wallman only for allegedly disclosing a processing data on a computer to compute. (See Final OA dated 08/25/06 (hereinafter,

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FOA), page 9, ln. 7 – 8). Thus, any shortcomings of Jenkins are not provided or corrected by Wallman.

Jenkins provides a required standard for accounting of derivatives and hedge instruments. The disclosed standard may introduce other problems (e.g., periodic earnings volatility associated with a hedging transaction) that flow from the very accounting measures required by Jenkins. Applicant claim methods are processes not disclosed or suggested by Jenkins but instead are processes that overcome “problems” associated with following the very directives outlined in Jenkins. (See Specification, page 8, ln. 17-26)

Jenkins discloses accounting and reporting standards for derivative instruments and hedging activities. Jenkins discloses, for example, classifications for derivatives (e.g., not a hedging instrument, a fair value hedge, a cash flow hedge, and a foreign currency hedge), depending on the attributes of the derivative. Also, Jenkins discloses how a gain or loss of a derivative instrument designated and qualifying as a fair value hedging, a cash flow hedging, and a foreign currency hedge shall be accounted. Jenkins discloses that the gains or losses are to be accounted for as, for example, earnings and other comprehensive income (OCI). (See Jenkins page 9, para. 18) Also, Jenkins states, “[A]t inception of the hedge, there is formal documentation of the hedging relationship and the entity’s risk management objective and strategy for undertaking the hedge, including identification of the hedging instrument, the hedged item, the nature of the risk being hedged, and how the hedging instrument’s effectiveness in offsetting the exposure to changes in the hedged item’s fair value attributable to the hedged risk will be assessed. There must be a reasonable basis for how the entity plans to assess the hedging instrument’s effectiveness.” (See Jenkins, page 10, para. 20. b.)

Jenkins further discloses how to account for the gains or losses associated therewith (e.g., earnings, OCI, etc.). For example, a page 16, paragraph 31, Jenkins discloses a statement regarding the manner in which accumulated OCI shall be reclassified into earnings in the same period or other periods.

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However, contrary to the FOA, there is no disclosure or even a suggestion in Jenkins regarding a hedge accounting method that includes re-designating a portion of the financial exposure being hedged by the hedging instrument.

Jenkins fails to disclose or suggest a method including re-designating a portion of a hedging instrument to reduce periodic earnings volatility associated with a hedging transaction, as claimed by Applicant. The Examiner admits that Jenkins fails to explicitly teach data is computed to re-designate.

The Office Action's reliance on Jenkins to support the statement, "that re-designation of the portion of the financial exposure based on changed price sensitivity of the hedging instrument would have been repeating the designation process of Jenkins" is in direct opposition to the actual disclosure of Jenkins since, for example, Jenkins explicitly discloses designating the portion of the financial exposure at inception of the financial instrument only. Jenkins does not disclose or suggest a method including designating or re-designating a portion of a hedging instrument in each of a plurality of sequential periods to reduce periodic earnings volatility associated with a hedging transaction.

Furthermore, the FOA does not provide any line of logical reasoning or other support as to why it would be obvious to re-designate a portion of a hedging instrument in each of a plurality of sequential periods to reduce periodic earnings volatility associated with a hedging transaction. The explicit disclosure of a designation at inception does not suggest or imply further re-designations in each of a plurality of sequential periods.

Applicant respectfully submits that the asserted combination of Jenkins and Wallman fails to overcome the insufficient disclosure of Jenkins. That is, even if Jenkins were combined with Wallman as asserted by the Office Action (not admitted as feasible by Applicant), the combination fails to render the claim 1 obvious under 35 USC 103(a) for at least the reasons discussed in detail above. Again, Jenkins fails to disclose or suggest that for which it is cited and relied upon for disclosing and there is

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no support for the obviousness conclusions argued in the FOA. Namely, Jenkins fails to disclose or suggest re-designating a portion of a hedging instrument to reduce periodic earnings volatility associated with a hedging transaction, as claimed by Applicant.

Claims 2 - 9 depend from claim 1. The Office Action rejected claims 12 - 14 on the same basis and rationale provided regarding claim 1. Accordingly, Applicant respectfully submits that claims 1 - 9 and 12-14 are patentable over the cited combination of Jenkins and Wallman under 35 USC 103(a).

Claims 10 and 11 were also rejected as being unpatentable over Jenkins in view of Wallman. This rejection is traversed.

Applicant respectfully submits that claims 10 and 11 are patentable over the cited combination of Jenkins and Wallman under 35 USC 103(a) for at least reasons similar to those provided regarding claim 1.

Thus, it is clear that the reasoning provided by Applicant hereinabove regarding claim 1 is applicable and sufficient to rebut the rejection of claims 10 and 11. Accordingly, Applicant respectfully submits that claims 10 and 11 are patentable over the cited combination of Jenkins and Wallman under 35 USC 103(a).

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CONCLUSION

Accordingly, Applicants respectfully request allowance of the pending claims. If any issues remain, or if the Examiner has any further suggestions for expediting allowance of the present application, the Examiner is kindly invited to contact the undersigned via telephone at (203) 972-5985.

Respectfully submitted,

October 25, 2006
Date



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